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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-205131.2

DATE: April 5, 1982

MATTER OF: McCotter Motors, Inc. -- Reconsideration

DIGEST:

Request for reconsideration is denied where the protester does not show that the prior decision was based on an error of law or fact.

McCotter Motors, Inc. requests that we reconsider our decision in McCotter Motors, Inc., B-205131, October 21, 1981, 81-2 CPD 333, in which we dismissed the firm's protest against an affirmative determination of responsibility under Air Force invitation for bids No. F49642-81-B-0064. We dismissed McCotter's original protest because our Office will not review affirmative determinations of responsibility unless fraud is alleged on the part of procuring officials or the solicitation contains definitive responsibility criteria which allegedly were not applied. Microsurance, Inc., B-195144.2, July 6, 1979, 79-2 CPD 14. We concluded that neither exception applied to the case. The request for reconsideration ostensibly contains information that we did not previously consider. In this regard, our Bid Protest Procedures require that a request for reconsideration specify any errors of law made or information not previously considered. 4 C.F.R. § 21.9 (1981).

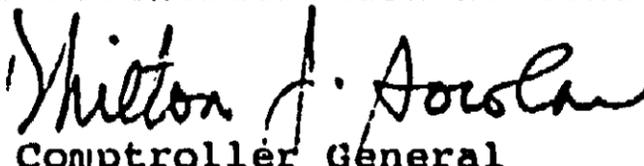
We deny the reconsideration request.

McCotter alleged in the original protest that in determining that the awardee was responsible the procuring agency improperly ignored 1) the findings in an audit report by our Office (MASAD-81-27, July 8, 1981) which commented unfavorably on the awardee's past conduct with respect to bidding and performing on similar contracts, and 2) the fact that the awardee had been debarred in the past. The request for reconsideration essentially only repeats these same allegations, albeit in more detail, and does not add any information to that which was already available to our Office, despite McCotter's suggestion to the contrary.

The request for reconsideration does raise one new matter, however. McCotter alleges that the awardee improperly submitted specially prepared, marked-up price lists with its bid, despite a requirement in the solicitation for price lists "that are in normal distribution in the trade for sales to the general public." According to the protester, these marked-up price lists formed the basis of discounts offered in the bid, which in turn affected the selection decision.

McCotter, however, does not submit any evidence in support of this allegation. Furthermore, the agency reports that it has looked into the matter and that McCotter is incorrect--all price lists submitted by the awardee were legitimate. Moreover, the agency reports that in judging the awardee's responsibility it considered all of the matters raised in our audit report and in McCotter's initial protest, but based on a survey of the firm's recent performance under similar contracts with other activities the agency found that the firm was responsible for purposes of this contract.

McCotter's request for reconsideration is denied.

for 
Comptroller General
of the United States